

## SCHEDULES

### SCHEDULE 12

Section 84

#### ENTITLEMENT TO MAKE AN APPLICATION FOR A LICENCE TO THE BOARD

##### *Application to Board*

- 1 (1) A licensable body may apply to the Board for a decision that the body is entitled to make an application for a licence to the Board acting in its capacity as a licensing authority.
- (2) An application under sub-paragraph (1) may be made only on one of the grounds specified in this paragraph.
- (3) The first ground is that—
  - (a) there is no competent licensing authority, and
  - (b) there is no potentially competent licensing authority.
- (4) The second ground is that—
  - (a) each competent licensing authority has determined that it does not have suitable regulatory arrangements,
  - (b) if one or more competent licensing authorities have made an application to the Board under Part 3 of Schedule 4 for the approval of alterations of their regulatory arrangements, each of those authorities has determined that it will not have suitable regulatory arrangements if the application is granted, and
  - (c) each potentially competent licensing authority has determined that it will not have suitable regulatory arrangements if it becomes a competent licensing authority.
- (5) The third ground applies only in relation to a licensable body within sub-paragraph (6), and is that—
  - (a) the body has made an application for a licence to each competent licensing authority which has suitable regulatory arrangements, and
  - (b) no such licensing authority is prepared to grant the body a licence on terms which are appropriate to that body, having regard to the matters in section 106(5)(a) to (c) and any other matter specified in rules made by the Board for the purposes of this sub-paragraph.
- (6) The licensable bodies within this sub-paragraph are—
  - (a) a not for profit body;
  - (b) a community interest company;
  - (c) an independent trade union;
  - (d) if an order under section 106(1)(e) so provides in relation to a description of body prescribed under that section, a body of that description.

*Board's decision on an application under paragraph 1*

- 2 (1) On an application under paragraph 1 the Board must, before the end of the decision period, decide whether the licensable body is entitled to make an application for a licence to the Board acting in its capacity as a licensing authority.
- (2) The decision period is—
  - (a) in relation to an application on the first ground, the period of 14 days beginning with the day on which the application is made,
  - (b) in relation to an application on the second ground, the period of 28 days beginning with the day on which the application is made, and
  - (c) in relation to an application on the third ground, the period of 60 days beginning with the day on which the application is made.
- (3) The Board must give a notice to the licensable body—
  - (a) stating its decision, and
  - (b) giving reasons for its decision.
- (4) The Board must make rules providing for a review of any decision made by it under this paragraph.
- (5) The rules may in particular provide that if the Board decides to grant the application, the Board may review that decision if the ground on which the application was granted ceases to be made out before the Board (in its capacity as a licensing authority) determines any application for a licence made by the licensable body.

*Licensing authority's duty to make relevant determinations*

- 3 (1) A licensable body may apply to each competent licensing authority for—
  - (a) a determination as to whether the authority has suitable regulatory arrangements;
  - (b) a statement as to whether the authority has made an application as mentioned in paragraph 1(4)(b) and if it has, a determination as to whether, if the application is granted, the authority will have suitable regulatory arrangements.
- (2) A licensable body may apply to each potentially competent licensing authority for a determination as to whether it will have suitable regulatory arrangements in place if it becomes a competent licensing authority.
- (3) A competent (or potentially competent) licensing authority to which a licensable body makes an application under sub-paragraph (1) or (2) may require the licensable body to provide it with such information in relation to the licensable body as it may specify.
- (4) The authority may specify only information which it reasonably requires for the purpose of making the determination applied for.
- (5) A competent (or potentially competent) licensing authority to which an application is made under sub-paragraph (1) or (2) must make the determination before the end of—
  - (a) the decision period, or

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- (b) if it requires the licensable body to provide it with information under sub-paragraph (3), the period of 28 days beginning with the day on which the information is provided.
- (6) The decision period, in relation to an application under sub-paragraph (1) or (2), is the period of 28 days beginning with the day on which the application is made.

*“The Board”*

- 4 In this Schedule references to the Board, unless otherwise stated, are to the Board acting otherwise than in its capacity as a licensing authority or an approved regulator.

*“Competent licensing authority”*

- 5 “Competent licensing authority”, in relation to a licensable body, means an approved regulator designated as a licensing authority in relation to each reserved legal activity which the licensable body proposes to carry on.

*“Potentially competent licensing authority”*

- 6 (1) “Potentially competent licensing authority”, in relation to a licensable body, means an approved regulator—
- (a) which has made an application to the Board under Part 1 of Schedule 10 for a recommendation that the Lord Chancellor make a relevant designation order, and whose application has not been determined, or
  - (b) in respect of which the Board has made such a recommendation, but in respect of which no relevant designation order (or decision not to make such an order) has been made by the Lord Chancellor.
- (2) A relevant designation order is an order—
- (a) designating the approved regulator as a licensing authority in respect of one or more reserved legal activities, and
  - (b) the effect of which will be that the approved regulator becomes a competent licensing authority in relation to the licensable body.

*“Suitable regulatory arrangements”*

- 7 (1) “Suitable regulatory arrangements”, in relation to a licensable body and a competent licensing authority, means regulatory arrangements which are suitable in relation to the licensable body, having regard to—
- (a) the composition of the licensable body, including in particular the matters in sub-paragraph (2);
  - (b) the services the licensable body proposes to provide;
  - (c) if the licensable body proposes to carry on non-reserved activities, any regulation to which the carrying on of such activities is subject;
  - (d) the persons to whom the licensable body proposes to provide services.
- (2) The matters are—
- (a) the kinds of authorised persons who are managers of, or have an interest in, the licensable body,

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- (b) the proportion of persons who are managers of, or have an interest in, the licensable body who are authorised persons or authorised persons of a particular kind,
  - (c) the kinds of non-authorised persons who are managers of, or have an interest in, the licensable body,
  - (d) the proportion of persons who are managers of, or have an interest in, the licensable body who are non-authorised persons or non-authorised persons of a particular kind, and
  - (e) the kinds of non-authorised persons who have an indirect interest in the licensable body.
- (3) In sub-paragraph (2)—
- (a) “authorised person” means a person who is an authorised person in relation to any activity which is a reserved legal activity, and
  - (b) authorised persons are of different kinds if they are authorised to carry on such activities by different approved regulators.